



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 07246-99
23 March 2000

GYSGT [REDACTED] USMCR
[REDACTED]
[REDACTED]

Dear Gunnery Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You requested removal of your fitness report for 1 August 1995 to 14 April 1996 and a service record book page 11 ("Administrative Remarks") counseling entry signed 13 April 1996.

It is noted that the Commandant of the Marine Corps (CMC) has removed the contested report for 1 August 1995 to 14 April 1996.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board with enclosure, dated 24 November 1999, and the advisory opinion furnished by HQMC dated 2 September 1999, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice warranting removal of the contested page 11 entry. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board noted that the page 11 entry was not just for incidents in January and February 1996, but also for an incident on 12 April 1996. They were unable to find any of these incidents did not occur, or that you were denied a chance to make a rebuttal statement. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



7246-99

DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1610
MMER
24 Nov 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF GUNNERY SERGEANT [REDACTED]
[REDACTED] USMCR

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 23 Nov 99
(2) CMC Advisory Opinion 1070 MI of 2 Sep 99

1. As evidenced by enclosure (1), PERB removed from Gunnery Sergeant [REDACTED] official military record, the fitness report for the period 950801 to 960414 (CD).

2. We defer to BCNR on the issue of Gunnery Sergeant [REDACTED]'s request for the removal of official entries from his Service Record Book. Enclosure (2) is furnished to assist in resolving that matter.

[REDACTED]
Head, Performance Evaluation
Review Branch
Personnel Management Division
By direction of the
Commandant of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

7246-99

IN REPLY REFER TO:
1610
MMER/PERB
NOV 23 1999

From: Commandant of the Marine Corps

To: Gunnery Sergeant [REDACTED] 01 USMCR
[REDACTED]

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report:

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
14 Apr 96	[REDACTED]	950801 to 960414 (CD)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events which may have precipitated it, unless such events are otherwise properly a part of the official record. The Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be corrected accordingly.

3. Since your request for removal of Service Record Book entries does not fall under the purview of this Headquarters, your case is being forwarded to the Board for Correction of Naval Records (BCNR) for resolution of that issue. Further inquiries should be directed to that agency at 703-614-9851.

[REDACTED]
By direction



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

7246-99

IN REPLY REFER TO:

1070
MI
2 SEP 1999

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF GUNNERY SERGEANT [REDACTED]
[REDACTED] USMCR

1. We reviewed Gunnery Sergeant [REDACTED]'s application and supporting documents concerning his request for removal of the Administrative Remarks page 11 entry, undated, that was acknowledged (signed) on 4-13-96 from his service record.
2. MCO P1070.12H, Marine Corps Individual Records Administration Manual (IRAM), authorizes commanders to make Service Record Book entries on page 11 that are essential to document an event in a Marine's career for which no other means or method of recording exists elsewhere in the Service Record Book or the Marine's automated record, and which will be useful to future commanders.
3. The counseling entry meets the elements of a proper page 11 counseling in that it lists specific deficiencies and recommendations for corrective action, as well as where assistance can be found per the IRAM. (It is noted that Gunnery Sergeant [REDACTED] was promoted to his present grade subsequent to the page 11 counseling entry.)
4. In view of the above, it is recommended that Gunnery Sergeant [REDACTED]'s request for removal of the page 11 counseling entry be disapproved.
5. Point of contact is Mr. [REDACTED] at [REDACTED]

[REDACTED]
[REDACTED]
Head, Manpower Information Systems
Field Support Branch
Manpower Management Information
Systems Division
By direction of the
Commandant of the Marine Corps

ENCL (2)